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Resolve
123rd Legislature
Second Regular Session

Chapter 199
H.P. 1417 - L.D. 2033

**Resolve, Directing the Department of Health and
Human Services To Adopt Rules Governing Water
Activities Offered by Licensed Child Care Facilities**

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Department of Health and Human Services has adopted rules governing the use of pools by licensed child care facilities; and

Whereas, these rules do not address the use of lakes and ponds by licensed child care facilities; and

Whereas, it is imperative that this issue be addressed prior to the summer season; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1 Adoption of rules. Resolved: That the Department of Health and Human Services shall adopt rules governing the use of lakes and ponds by licensed child care facilities and certified family child care providers. The rules must allow a child care facility or a family child care provider to use a lake or pond for water activities without a lifeguard on duty as long as the family child care provider or child care facility has written permission from the parent or guardian of every child who participates in water activities and a written water safety plan and meets all of the other water safety rules for swimming pools. The water safety plan must ensure that:

1. The staff-to-child ratios for swimming pools are maintained and that no fewer than 2 people who are at least 18 years of age are present at all times;
2. At least one person present is trained as a water safety attendant as defined in the rules for swimming pools;
3. A barrier is provided, such as a roped-off area with buoys, that is no wider than 16 feet across at any point and partitions off a part of the water that is no deeper than 4 feet at any point and is in place prior to the children's entering the water;
4. Children 8 years of age and under wear a life jacket in the water; and

5. Children over 8 years of age have had swimming lessons and can demonstrate the ability to swim, or must wear a life jacket.

Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A and must be adopted and in effect no later than June 1, 2008; and be it further

Sec. 2 Notice regarding water activities. Resolved: That the Department of Health and Human Services shall adopt rules that require a family child care provider or child care facility that offers water activities without a lifeguard on duty to provide written notice to the parent or guardian of every child who participates in water activities that there will not be a lifeguard on duty.

Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective April 14, 2008.